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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PAYNE, SHARON E

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 01/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/992,131	PINCIARO, FRED J.	
	Examiner	Art Unit	
	Sharon E. Payne	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2,3</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 10 July 2002 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered. (Only one reference was not considered.)

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the necklace, pendant, tiara, bracelet, backpack, scarf and umbrella (claims 15 and 30) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because the specification refers to Fig. 5 (page 5), but Figures 5a and 5b appear in the drawings.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 40, 42 and 70.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationship is the relationship between the functional element and the decorative element. (The functional element is not connected to the decorative element.) See claims 1 and 16.

Claims 2-15 and 17-30 are necessarily included due to their dependency.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1, 7, 8, 10, 15, 16, 22-25 and 30 rejected under 35 U.S.C. 102(e) as being anticipated by Tedham et al. (U.S. Patent 6,431,724).

Regarding claim 1, Tedham et al. discloses a bag with a mounted light source. The bag includes at least one decorative element (column 2, line 26), wherein the decorative element comprises at least one holding element (hem, reference number 35) for receipt of a chemiluminescent article (Fig. 1) wherein the at least one holding element comprises openings (reference number 38) directly displaying the chemiluminescent article (Fig. 1), at least one

functional element (Fig. 1), wherein the functional element comprises at least one attachment member for disposing the accessory on a wearer (rope handles, reference number 25), and at least one chemiluminescent article (glow stick, reference number 50). (The openings directly display the chemiluminescent stick, because the bag is translucent; see column 2, lines 20-23).

Concerning claim 7, Tedham et al. discloses a closing member on the holding element (Fig. 3). (The portion of the holding member that lies over the chemiluminescent stick is a cover.)

Regarding claim 8, Tedham et al. discloses a cover. See the analysis of claim 7.

Concerning claim 10, Tedham et al. discloses the holding element comprising a translucent member (column 2, lines 20-23).

Regarding claim 15, Tedham et al. discloses the accessory being a satchel (Fig. 1).

Concerning claim 16, Tedham et al. discloses at least one decorative element (Fig. 1), wherein the decorative element comprises at least one holding element (hem, reference number 35), at least one functional element (Fig. 1) wherein the functional element comprises at least one attachment member (reference number 25) for disposing the accessory on a wearer, and at least one chemiluminescent article (glow stick, reference number 50). (The portion of the claim beginning with "for receipt" and ending with "ornamental element" in line 3 constitutes functional language which is not given patentable weight; see M.P.E.P. 2114.)

Concerning claim 22, Tedham et al. discloses a closing member on the holding element (Fig. 3). (The portion of the holding member that lies over the chemiluminescent stick is a cover.)

Regarding claim 23, Tedham et al. discloses a cover. See the analysis of claim 22.

Concerning claim 24, Tedham et al. discloses multiple holding elements (Fig. 1). (Each hem on each of the two sides of the bag is an individual holding element.)

Regarding claim 25, Tedham et al. discloses the holding element comprising a translucent member (column 2, lines 20-23).

Regarding claim 30, Tedham et al. discloses the accessory being a satchel (Fig. 1).

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 16-23 and 25-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenfeld (U.S. Patent 4,061,910).

Regarding claim 16, Rosenfeld discloses at least one decorative element (Fig. 7) wherein the decorative element comprises at least one holding element for receipt of a chemiluminescent article and at least one ornamental element (side walls, reference number 64), at least one functional element (Fig. 7), wherein the functional element comprises at least one attachment member for disposing the accessory on the wearer (Fig. 7, ring portion around finger), and at least one chemiluminescent article (column 9, lines 1-11).

Concerning claim 17, Rosenfeld discloses the decorative element comprising a reflective element (column 9, lines 34-38).

Regarding claim 18, Rosenfeld discloses the reflective element comprising metal (column 9, line 33). (The reference states that any material may be used, but rings are normally made of metal.)

Concerning claim 19, Rosenfeld discloses a reflective element comprising a finished surface that is polished (column 9, line 35).

Regarding claim 20, Rosenfeld discloses a reflective element that is rectangular (Fig. 7).

Concerning claim 21, Rosenfeld discloses a reflective element that has a three-dimensional shape (Fig. 7).

Regarding claim 22, Rosenfeld discloses the holding element comprising a closing member (reference number 62).

Concerning claim 23, Rosenfeld discloses a closing member comprising a cover (reference number 62).

Regarding claim 25, Rosenfeld discloses a holding element comprising a partially opaque member (side walls 64 are opaque).

Concerning claim 26, Rosenfeld discloses the partially opaque member having a fixed translucent area (wall surface 62 is translucent).

Regarding claim 27, Rosenfeld discloses a decorative element additionally comprising an ornamental element wherein the ornamental element comprises a translucent member (semi-precious stone, column 9 in line 34).

Concerning claim 28, Rosenfeld discloses the ornamental element as being a semi-precious stone (column 9, line 34).

Regarding claim 29, Rosenfeld discloses the ornamental element being back-lit by the chemiluminescent article (column 9, lines 1-30).

Concerning claim 30, Rosenfeld discloses the accessory being a ring (Fig. 7).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-15 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenfeld.

Rosenfeld discloses at least one decorative element (Fig. 7) wherein the decorative element comprises at least one holding element for receipt of a chemiluminescent article (side walls, reference number 64) wherein the at least one holding element comprises an opening (Fig. 7, portion filled by wall 62) directly displaying the chemiluminescent article (column 9, lines 1-31), at least one functional element (Fig. 7), wherein the functional element comprises at least one attachment member for disposing the accessory on the wearer (Fig. 7, ring portion around finger), and at least one chemiluminescent article (column 9, lines 1-11). Rosenfeld does not disclose a plurality of openings.

Having a plurality of openings in the Rosenfeld apparatus is considered to be an obvious duplication of parts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to duplicate the openings in the Rosenfeld reference to produce the desired display.

Regarding claim 2, Rosenfeld discloses the decorative element comprising a reflective element (column 9, lines 34-38).

Concerning claim 3, Rosenfeld discloses the reflective element comprising metal (column 9, line 33). (The reference states that any material may be used, but rings are normally made of metal.)

Regarding claim 4, Rosenfeld discloses a reflective element comprising a finished surface that is polished (column 9, line 35).

Concerning claim 5, Rosenfeld discloses a reflective element that is rectangular (Fig. 7).

Regarding claim 6, Rosenfeld discloses a reflective element that has a three-dimensional shape (Fig. 7).

Concerning claim 7, Rosenfeld discloses the holding element comprising a closing member (reference number 62).

Regarding claim 8, Rosenfeld discloses a closing member comprising a cover (reference number 62).

Concerning claims 9 and 24, Rosenfeld does not disclose multiple holding elements, but it does disclose one of them for the reasons specified above.

Having multiple holding elements is considered to be an obvious duplication of parts. Since the holding member is well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have multiple holding elements in the Rosenfeld reference for containing the chemiluminescent material.

Regarding claim 10, Rosenfeld discloses a holding element comprising a partially opaque member (side walls 64 are opaque).

Concerning claim 11, Rosenfeld discloses the partially opaque member having a fixed translucent area (wall surface 62 is translucent).

Regarding claim 12, Rosenfeld discloses a decorative element additionally comprising an ornamental element wherein the ornamental element comprises a translucent member (semi-precious stone, column 9 in line 34).

Concerning claim 13, Rosenfeld discloses the ornamental element as being a semi-precious stone (column 9, line 34).

Regarding claim 14, Rosenfeld discloses the ornamental element being back-lit by the chemiluminescent article (column 9, lines 1-30).

Concerning claim 15, Rosenfeld discloses the accessory being a ring (Fig. 7).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Cranor et al. (U.S. Patent 6,106,129) discloses a chemiluminescent device having particles with secondary fluorester for enhanced illumination.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (703) 308-2125. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

sep
January 15, 2003


Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800